NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

LARRY CONWAY,

PETITIONER

versus

STATESMAN MORTGAGE COMPANY, fka, FEDERATED FINANCIAL CORPORATION AND SHANNON HANEY, CHAPTER 13, TRUSTEE

RESPONDENTS

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether a Federal Appellate Court has an affirmative duty to remedy and rectify bankruptcy fraud, fraud upon the Federal Judiciary, obstruction of justice, racketeering, and conspiracy thereto and extortion under color of official right, contempts upon the Federal Judiciary and Felony Criminal Law Violation of Title 18 United States Code committed by officiers of the court and or agents of the government in their duty or outside of it?

2. Whether it is an abuse of discretion, neglect of duty for a lower court and undermining of the Federal judiciary and government to ignore felony racketeering law violations, and racketeering to be covered up, misprisoned and the perpetrators to profit from their unlawful and wrongful misconduct, or for party wronged to be denied rightful review and determination

of the issues and remedy on the merits of the case, based on a mere and untrue technicality designed to cover-up and misprison such criminal misconduct?

3. Can a mere technicality of a few days time, even if it were the fault of appellant, though it was not, be more important to the interest of justice, the honor of the federal judiciary and public interest than remedying contempt and fraud upon the federal judiciary, fraud in a case under Title 11 United States Code (bankruptcy laws), racketeering and conspiracy by officiers of the court , or members of government?

4. Does any fraud in a case under the Bankruptcy Laws, Title 11 United States Code, along with extortion under color of official right, use of the telephones and mails for the fraud and for bankruptcy fraud obstruction of justice, retaliation against victim, witness or informant, perjury, subornation of perjury, filing false claims, oaths and declarations in

case under Title 11 United States Code and conspiracy thereto, constitute racketeering, as provided, pursuant to Title 18 United States Code, Section 151, 152, 1961, 1961(d), 1962, et seq?

5. If and when attorney, trustee and judge conspire and make private prior agreement outside of the judicial processes to decide in favor of one party in a case under Bankruptcy, Title 11 United State Code, with intent to defraud and defeat the bankruptcy laws, does it constitute racketeering and be cause for contempt sanctions, felony prosecution, disbarment and or removal from their positions of public trust and honor ?

6. Whether bankruptcy trustee has a fiduciary duty to bankruptcy estate to impartially protect the property and interests of all who have claims or interest in the bankruptcy estate?

7. Whether or not the trustee can or should be held responsible or liable for

malfeasance, fraud,misfeasance, unreasonable conduct and conspiracy thereto, in her treatment of the property of the bankruptcy estate and parties having interest thereto?

8. Whether a person who has never, ever personally filed any kind or type of petition under the Bankruptcy Laws, Title 11,United States Code with multiple, separate and individual creditors, be prejudiced or denied the right of reorganization and or an unwaiverable right of conversion to liquidation under chapter 13 or chapter 7?

9 . Does whoever knowingly and fraudulently makes a false oath or account in or relation to a case under title 11 or knowingly and fraudulently makes false declarations, certificates, verifications or statements under penalty of perjury or knowingly and fraudulently presents any false false claim for proof against the estate of a debtor or uses such claim in a case under Title 11 United States Code, personally

or by agent, proxy or attorney or knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under chapter 11 with intent to defeat the provisions of Title 11 United States Code, guilty of bankruptcy fraud and felony, criminal law violations of Title 18 United States Code Sections 151, 152, 1961(d), 1962, et seq., and also guilty of fraud upon the federal judiciary?

10. Should an attorney and or his client with intent to defeat the bankruptcy law and commits fraud and conspiracy thereto in a case under Title 11 United State Code, be allowed to profit, and or benefit from their wrongful actions, under any circumstances in a federal court of appeal?

11. If two or more persons conspire to injure, oppress, threaten or intimidate any citizen in the free exercise of, or enjoyment of any right, or priviledge

secured to him by the Constitution or laws of the United States or because of him having so exercised the same as the respondents, trustee and bankruptcy judge in the instant case be subject to penal sanctions and damages or this court's fair, just and equitable remedies?

12. Whether bankruptcy appellate panel are required by law and the interest of justice to give up jurisdiction of bankruptcy appeals that requires consideration of both Title 11 United States Code and other laws of the United States regulating organizations or activities affecting interstate commerce?

13. Whether the bankruptcy fraud, racketeering ring at San Bernardino, California consisting of the respondents, their attorney and the three bankruptcy judges, Mitchell Goldberg, David Naugle, Lynne Riddle, and the Chapter 13 Trustee and her office and certain other of their associates,

who have converted their official posts and offices into racketeering enterprises that have and are socking and causing great harms upon the American public, shall be held accountable and brought to justice or will their most scandalous criminal misconduct be covered up, misprisoned as has been attempted by the abuse of discretion of the lower courts?

14. Is a creditor entitled to relief from stay in a bankruptcy where false claims, oaths and declarations are filed on shortened or no notice hearing date, where debtor personal residence is involved with a debt of about $150,000 and a fully known fair market value of not less than $250,000 to $280,000 as residential property and a value of about $600,000 to $850,000 as the fair market value as commerical property of which it is designated and/or zoned, and secured creditors has a 100% Veterans Administration Guaranteed loan

and that said fair market valuations have been confirmed by independent appraisals, completed by both debtor and agents of secured creditor and such facts are uncontroverted?

15. Are secret trials/hearings permissable in federal courts of America as was held in the instant case subject of appeal or will they be sanctioned?

16. Are all federal courts in America supposed to be court of equity and law.

17. If all federal courts in America supposed to be courts of equity and law, how can a lower court be permitted to sanction and cover-up fraud against it in any of its proceedings and not be a violation and abuse of its discretion, dignity and honor?

18. Does an extortionist have to receive any benefits or profits from extortion under color of official right?

19. What is the gravaman of the offence

of extortion and or is it the loss to the victim?

20. Is it legally possible without extortion or fraud for a debtor having filed a petition under bankruptcy Title 11 United States Code, Chapter 13, to be made to pay cash money to a secured creditor who files for relief from stay and give up the secured real property to said secured creditor to foreclosure, wherein the real debt on such real property is about $150,000 and the value, not less than $250,000, up to $850,000 or equity to debt ratio of about 2 to 6 times debt owing as happened in the instant case subject of appeal?

21. What is the legal interpretation and meaning of extortion under color of official right as provided pursuant Title 18 United States Code, Section 1951(b)(2) and does its meaning encompass both common law extortion and the taking and withholding of official action and or conspiracy thereto

by a public official, i.e. bankruptcy judge/s, bankruptcy trustee or other members of government?

22. Does willful and knowing fraud upon the federal court and fraud in a case under Title 11 United States Code, the Bankruptcy Code, by officers of the court constitute both civil and criminal contempt of court

23. Whether or not debtors have right of fair trial and hearings, impartial arbiters of the facts and law in bankruptcy court and other due process rights and if persons or parties conspire to defeat, obstruct interfere, deny and or deprive an American Citizen of such rights and property by conspiracy outside of the judicial and or governmental processes, can they be felony prosecuted for such conspiracy pursuant to Title 18 United States Code, Section 241, as was done in the instant case subject of review?

24. Are lawyers, bankruptcy trustee,

bankruptcy judges, or other government employees above the laws, both civil and criminal or are all persons and parties subject to the laws and the intent of such laws?

25. Can or does equity reward wrong or permit persons and or entities to profit from their wrongs or one to suffer from the acts of anothers wrongs?

26. Whether willful neglect of duty and breach of oaths of office by judicial officier and or government employee constitute perjury and if so does perjury carry criminal penalty under Title 18 United State Code and State Law?

27. Does Bankruptcy trustee filing of a declaration of no-assets in a bankruptcy case where debtor has known assets and or equities in real property of $150,000 to $700,000, automobile equity and other assets of over $50,000 and debts of about $250,000, constitute fraud, where intent

is to cover-up misconduct and fraud in a case under title 11 United State Code as was done in the instant case?

28. Does a secured creditor have a mandatory duty to file a proof of claim and or proof of the perfection of said claim to file a motion for relief from stay or have legal standings?

29. Is a secured creditor at no loss or risk to its collateral entitled to relief from stay where a debtor has more than 20% of equity in their property and such property is necessary to an effective reorganization and has 100% government guarantee against losses or risk to its interests?

30. Does lower federal courts in the United States have an affirmative duty to uphold the constitution, laws, and the orders and mandates of the Supreme Court and appellate courts of the United States?

31. If lower courts refuse to, fail to

uphold the mandates and orders of the Supreme Court and the Appeals Courts, the Laws, and the Constitution; is not the Supreme Court empowered and or required by its supervisory power over the courts to remedy and rectify disregards of its orders, mandates, the laws and the constitution, as has happened in the instant case subject of appeal?

32. Is it appropriate and or lawful for bankruptcy judge to contact outside the judicial process a United States Magistrate concerning a lawsuit filed against him for bankruptcy fraud, racketeering and other, in another District Court to issue a corrupt, fraudulent, extortionate and obstruction of justice court order within less than 20 days of filing, dismissing the entire case action and deleting his own and associates names without any kind of due process hearing or notice of any kind of opportunity to service complaint

and without legal or constitutional authority so to do, as the bankruptcy judge herein did regarding related pending Ninth Circuit Court of Appeal Case known as CA 90-56186? 33. If this appeal was not being willfully, unlawfully, unconstitutionally, tampered and obstructed with at the courts below, how and why did not the bankruptcy appellate panels of the Ninth Circuit in not less than three emergency motions requesting a stay order of the bankruptcy order/ judgement and its effects by appellant be completely disregarded and ignored and refused to be addressed or denied, to prevent appellant having an appealable ruling during the course of the appellate proceedings, to the Ninth Circuit Court of Appeals or the Supreme Court, or Why did certain of the clerks at the Bankruptcy Appellate Panels openly brag about tampering with and defeating this case subject of appeal while in their jurisdiction, and

how did bankruptcy trustee Shannon J..Haney name be attempted to and or removed from the General Docket sheet of the Bankruptcy Appellate Panel of the Ninth Circuit, and how did Shannon J. Haney, trustee who herself filed a motion to the Bankruptcy Appellate Panel of the Ninth Circuit to have her name removed as appellant, after debtor/respondent, Larry Conway filed written objection, the Bankruptcy Panel of the Ninth Circuit issued an order on May 18, 1990, because of clear and apparent, corruption and misconduct of the trustee "name was removed from the appeal/s (before it) as appellant (and mandated) but shall be listed as appellee in this appeal" and on same docket sheet for this case while before Bankruptcy Appellate Panel (CC 90-1166) is marked thru after docket entry number 4 (four) dated 4/12/90 and why is it that the Bankruptcy Appellate Panel of the Ninth Circuit permitted the

lower Bankruptcy clerks to refuse to certify and send up the record in related underlying case before it, known as CC 90-1333,though apprised and requested of it by appellant/ respondent, Larry Conway, and why did not the Bankruptcy Appellate Panel, if concerned about law , and equity, not order all the related appeals from the same bankruptcy case before it, consolidate with related appeals pending known as CC 90-1166, CC 90- 1333 and CC 90-1634, concerning same case, issues, laws and parties, rather than pretextually refuse to address the issues and dismissed each and every one of them,even after briefing and why did the clerks conceal or destroy the appellant/respondent, Larry Conway's brief that was timely mailed before deadline for filing and forced to personally refile about 10 days late as a result?

34. How did the bankruptcy fraud, racketeering ring operating out of the Central

District Bankruptcy Court at San Bernardino, California, get so all powerful and out of control that they can freely, openly and notoriously influence, dictate or obstruct appellate and proceedings in other federal courts and why and how can they be protected from apprehension and punishment under the laws of the United States?

35. Whether State law shall be regarded as rules of decisions in Civil cases in the courts of the United States in cases where they apply?

36. If State Law is regarded as rules of decisions in Civil Actions, where they apply, then does the California Code Section 3517 "which mandates no one can take advantage of his own wrong", section 3520 "no one shall suffer by the act of another and section3521 "he who takes the benefits must bear the burden and section 3523 "for every wrong there is a remedy", are

these laws applicable in this case to the misconduct, fraud and wrongs committed by respondents and their associates?

37. Whether the Appeals /Courts below have so far and egregiously departed from the accepted and usual course of judicial proceedings and has sanctioned same such departure by the lower courts as to call for an agressive exercise of this, The United States Supreme Court powers of supervision?

LIST OF THE PARTIES

The parties to the proceedings below ere petitioners, Statesman Mortgage Company ormerly known as Federated Financial orporation and Shannon J. Haney, Chapter .3 Trustee, Appellees/Respondants.

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1991

LARRY CONWAY,

PETITIONER,

vs.

STATESMAN MORTGAGE COMPANY, fka FEDERATED FINANCIAL CORPORATION AND SHANNON J. HANEY BANKRUPTCY TRUSTEE,

RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

The petitioner, Larry Conway, respectfully prays that a Writ of Certiorari Issue to review the judgement and opinion of the United States Court of Appeals for the Ninth Circuit entered in the above entitled proceedings on August 5,.1991.

OPINIONS BELOW

The memorandum of decision the Court of Appeals for the Ninth Circuit is reprinted in the Appendix A hereto, pp A1-6 infra; the ORDER of the Bankruptcy Appellate Panels of the Ninth Circuit Court of Appeals

Dismissing Case is reprinted in the Appendix hereto, pp. B1-4, infra; The Order of Bankruptcy Appellate Panel of the Ninth Circuit removing for cause the name of trustee Shannon J. Haney as appellant in the Appeal and renaming trustee Shannon J. Haney as party appellee in this appeal is reprinted in the Appendix hereto, pp. C1, Infra; The Order granting Relief From Stay by the Bankruptcy Court is reprinted in the Appendix hereto D1-3, infra.

JURISDICTION

Petitioner, Larry Conway seek review of the Memorandum of opinion entered August 5, 1991, by the United States Court of Appeals for the Ninth Circuit.

The jurisdiction of this court to review the judgement of the Ninth Circuit in invoked under Title 28 United States Code, Section 1254(1).

STATUTES INVOLVED

Title 18 USC, Sections 2, 4, 151, 152, 241, 401, 402, 1001, 1341, 1343, 1621, 1622, 1623, 1951, 1952, 1961, 1962, 2071, 2076.

Title 42 USC, 1981;

Title 11 USC, 323, 522, 541, 704, 1302;

11 USC, Rules 3001, 3002, 9024.

Title 28 USC, Sections 583 & 1652.

United States Constitution, V, VI, XIII, XIV Amendments.

California Amotated Code Sections, 3333, 3517, 3520, 3521, 3523, 5105, 5110.

Federal Rules of Civil Procedure Rule 60. the pertinent texts of the statutes and rules involved are reprinted in appendix section E-1, infra.

STATEMENT OF THE CASE

The appellant/petitioner, Larry Conway filed a petition in Bankruptcy on or about January 8, 1990, seeking right and opportunity as provided Title 11 USC to protect his significant assets to orderly reorganize his financial affairs and pay off all creditors and debts 100% or to liquidate said assets and protect and or realize property exemptions provided by law.

Case was given bankruptcy court case number SBX90-00146LR, assigned to bankruptcy Judge Lynne Riddle. Immediately, without legal or just cause on or about 1/19/90 attorney Bruce Zuckerman acting as both attorney and witness in same case at same time filed motion for relief from stay, application for order shortening time and declaration in support thereof.

The essence of the Motion and Declaration were mere conclusory and knowingly false

allegations, false statements, misstatements and misrepresentative statements and/or misleading statements that were intended to defraud and defeat the provisions of the Bankruptcy Code and such papers and documents intended to defraud were sent through the mails and wire transmitted and filed in a case under Title 11 USC, Bankruptcy.

Moreover, the motions and filings were not in mandatory compliance with the Local Bankruptcy Rules, General Order Number 1, for Bankruptcy Court or the Bankruptcy Code Title 11 USC.

With intent to defraud and defeat the bankruptcy code, and deny due process rights debtor/petitioner received notice on 1/24/90 of a shorten hearing date set for 1/31/90, at 9:00am before bankruptcy judge Mitchell Goldberg for Motion for Relief From Stay.

Petitioner/debtor was forced to file

a lengthy response in Opposition to the Relief From Stay, the following date of 1/25/90 or waiver his rights to Oppose the Motion for Relief From Stay.

The subject of the motion for relief from stay concerned the personal residence of petitioner/debtor Larry Conway that had a loan/lein balance held by respondents of about $150,000 and a fair market value of $250,000 to $280,000 as residentual property and a value as commercial property fo $650,000 to $850,000 of which it had been designated by the City of Corona, South Corona Facilities Plan as "part of the central terminus of the commerical district". The true value of this property filed with the court, certified appraisals, comparable market sales and declarations confirming these facts.

The real and true fair market value of this property subject to this Motion for Relief from stay was filed with the

court and fully confirmed by certified fair market value appraisals, comparable sales of other property data of public record and sworn declarations.

Moreover petitioners filed with the court proof that respondent had a 100% Veterans guaranted loan to protect his lien against all risk of loss of value. The respondent attorney, Bruce Zuckerman, Robert E. Weiss, willfully and knowingly tried to and did conceal this fact of the 100% loan guarantee.

Also the respondent and or their agents completed an appraisal for liquidation purposes and even it showed a value of significant equities above respondent debt, yet, respondent filed knowingly and willfully false declarations and oaths that petitioners "property was not worth the debt owed to them".

Because of the false declaration, oaths and amounts of monies claim owed to them,

respondent procured a Shortened Hearing Date.

Respondents and their attorney all the while had repeatedly refused to be paid off this lien, though petitioner and his spouse had applied for, arranged and been approved for about a dozen no qualifying and hard money loans and with each loan committment respondent and their attorney with intent to defraud petitioner and his spouse of their real property and its significant equities, respondent and their attorneys interfered, sabutaged obstructed and defeated them.

The respondent and their attorney/s Bruce Zuckerman/Robert E. Weiss was not satisfied with filing false claims and declarations in petitioners case, he further conspired and agreed with the bankruptcy trustee Shannon J. Haney and her assistant Phyllis Parmely to refuse to, fail to and neglect to fulfil their

lawful duties to appear at the Hearing for Relief From Stay or to Inventory the bankruptcy estate or perform any of their fiduciary tasks as relates to representing or protecting the interest of the bankruptcy estate and also to cover up the bankruptcy fraud intended and committed by filing a false declaration of no assets with court in the case.

Respondent and their attorney/s Bruce Zuckerman/Robert E. Weiss, also conspired outside of the judicial process with the bankruptcy judge Mitchell Goldberg to preagree and predecide the hearing on the Motion for Relief from Stay in his favor and to hold the hearing in secret before normal court hours of 10:00am in his courtroom out of public view or knowledge at 9:00am on 1/31/90, all in furtherance to the continuing bankruptcy fraud racketeering conspiracy.

On 1/31/90 at 9:00am in secret (non-

public) hearing on the Motion for Relief from stay, bankruptcy judge Mitchell Goldberg in total disregard of the law, the objectives of the bankruptcy code, with intent to defraud and defeat the bankruptcy law, in furtherance of the continuing conspiracy gave respondent and their attorney/s Bruce Zuckerman/Robert E. Weiss the right to defraud and foreclose debtors petitioners personal residence and home worth $250,000 to $280,000 as fair market value as residential property and with $650,000 to $850,000 as commerical property fair market value of which it was designated at the secret (non-public) hearing, under force, threats, fear and intimidation to petitioner and his wife. Petitioner was not allowed to speak on his own behalf, and without any discussion of the proof, facts, law on the case relief from stay was granted and preagreed order was signed on the spot.

Furthermore this secured creditor, respondent not only was given relief from stay to take significant equities and property of petitioner/debtor's bankruptcy estate, but petitioner was, thru force and fear, by this taking and withholding of official action was extorted under color of official right as defined by Title 18 USC, Section 1951(b)(2) and as prohibited by 18 USC, Sections 151, 152, 241, 1961(d) 1962 et seq., out of about $2000.00 cash (where in the bankruptcy code or case law is a secured creditor in a chapter given both relief from stay and cash money?).

If this kind of corrupt and unconscionable action is allowed in bankruptcy under Title 11 USC, Chapter 13, the bankruptcy law intents and purposes would be thoroughly undermined and defeated.

Respondent, their attorney, the bankruptcy judge Mitchell Goldberg and trustee Shannon Haney Conspiracy to predecide

in favor of respondents was not enough, but to perfect their bankruptcy fraud, on the spot signed the pre-prepared Order giving the Relief From Stay and make no mention of the cash of about $2000 defrauded and extorted and taken from petitioner, however 11 USC, Section 109(g) is handwritten on the Order to make sure petitioner is deprived of his unwaiverable right of converting to Chapter 7 liquidation, as mandated by 11 USC, Section 1307(a).

Moreover, the order dated, entered and filed on 1/31/90 at the secret hearing states chapter 13 trustee Shannon J. Haney didnot appear, though mandatory under the code (see appendix pp. D1-3).

The secret hearing (non-public) held on 1/31/90 at 9:00am was not recorded, no court clerk, no other cases heard at same time and no findings of fact or law were even made by the court. Nor did respondents or their attorney give petitioner

the time and date of the foreclosure sale date though required by local bankruptcy rule 112 and General Order Number 1.

The record will show that not only the respondent and their attorneys willfully intent to defraud petitioners and defeat the bankruptcy code purposes, but conspired so to do in furtherance of a continuing bankruptcy fraud racketeering ring association in fact, at the San Bernardino, California.

The record will show that respondants, their attorneys not only conspired to defraud petitioner in a bankruptcy case under Title 11, but has associated with for bankruptcy fraud, racketeering purpose, officially corrupt chapter 13 trustee Shannon J. Haney and her assistant Phyllis Parmely and officially corrupt bankruptcy judge Mitchell Goldberg, who have corrupted and converted their positions of public trust and honor into an ongoing criminal

enterprises, associations in fact, for racketeering purposes and petitioner can strictly prove not less than 100 felony law violations of Title 18 USC, the criminal code knowingly and willfully committed by this bankruptcy fraud ring operating out of the federal courthouse at San Bernardino, California, their offenses against the American Public and United States include but is not limited to multiple acts of bankruptcy fraud, extortion under color of official right, mail fraud, wire fraud, perjury, subornation to perjury, filing false claims, oaths and declarations in court and bankruptcy, bribery, misprisons of felony, conspiracy to deprive citizen of constitutional rights, illegal fee splitting and fee fixing in bankruptcy cases, breach of fidelity and trust, interstate transportation of stolen property obstruction of justice, retaliation against victim, witness and informant, frauds

against the United States and others and conspiracy so to do.

Further proof that respondent and their attorneys intended to and did defraud petitioner and conspired to defeat the Bankruptcy law is founded in the fact that they, the judge and the trustee openly bragged, that " they were the law and no one could or would stop them", from criminally assaulting an outraging petitioner and his spouse.

The final proof that the respondents conspired to and did defraud Petitioner is founded in the mandtes of this court and the appeals and other courts who have clearly dealt with the subject of relief from stay. The Ninth circuit court of appeals, clearly mandated "That where equity cushion available to protect secured interest in debtors property, is 20% of total value, creditor is adequately protected and not entitled to relief from stay",

RE: Mellor (1984 CA9) 734 F2d 1396 CCH Bankr L Rptr 69899; Another court mandates creditor interest is adequately protected where mortgagor may recover interest in residence under loan guarantees and FHA and Veterans Administration", Penn State Employees Retirement Fund vs. Roane (1981 ED PA) 14BR 542, 5CBC. Mortgagee is not entitled to relief under 11 USC, Section 362(d) where court finds debtor has equity in property, property is necessary for effective reorganization and the creditor interest is adequately protected by FHA(VA) mortgage insurance", RE: Henderson (1982, BC ED PA)21 BR 285; "Bankruptcy is designed to provide orderly liquidation procedure under which all creditors are treated equally", H. Rept No. 95595 page 340.

In Relief From Stay Hearing, "party having the burden of proof must produce evidence and not allegations" RE: Gauvin(1982 BAP 9 CAL). "It is inappropriate to lift

automatic stay to permit creditor to foreclose mortgage where debtor has substantial equity in property" RE: International Food Corp (1983 BCMD Fla) 30 BR 306; Adequate protection is design to protect creditor interest at time of filing ...is not designed to compensate creditor for losses it might have suffered prior to filing of petition" RE: Barkley Cupit Enterprises Inc. (1981 BC ND GA) 13 BR 86 7B CD Affd without OP (CA 5 GA) 677 2d112. "Secured creditors are not entitled to adequate protection unless the value of their security is declining" United Saving Association vs. Timbers of Inwood Forrest Associates LTD. (1988) 484 US365, 982 LED 2d 108 S.CT.CCH Bankruptcy Law Reporter 72113.

The respondent, the trustee and the judge knew that it was unlawful and wrongful to conspire outside of the judicial processes and neglect their lawful duty

and the Ninth Circuit of which we are part has mandated "Judge private prior agreement to decide in favor of one party is not judicial act and proof of that agreement may form the basis of liability... whether or not judge is immune from subsequent judicial acts" Ranklin vs. Howard (1980 CA 9) 633 F- 2d 884, and this court and other have mandated "as a fiduciary the bankruptcy trustee owes the debtors estate and (all) its creditors a general duty of loyalty". He (she) is subject to personal liability not only for intentional violation of duty but negligent violation of duties imposed upon him by law" Mosser vs. Darrow (1951) 341 US 267, 71 S.CT. 680. "In addition to those duties specified in the bankruptcy act the reorganization trustee is a fiduciary who has an obligation to treat all parties fairly in a reorganization" Sherr vs. Winkler (10th Cir 1977) 552 F 2d 1367 1374 citing Wolf vs. Weinstein

(1963) 372 US 633 83 S.CT 969; "Trustee is saddled with high order of obligation to the beneficiary of that trust"; "Federal Civil Right Statute (18USC, Section 241) is violated by conspiracy...irrespective of whether interference is by government or private action" United States vs. Guest (1966) 383 U.S. 745 16LED 2d 239, 86 S.CT.117. "Federal Civil rights statue (18 USC, 241 which makes conspiracy to interfere with citizen free exercise or enjoyment of any right or priviledge secured him by constitution or laws, a (felony) criminal offense embraces all of constitutional and all law of United STates including 13th, 14th, 15th amendments; ...must be accorded sweep as broad as its language, includes rights under due process of law" United States vs. Price (1966) 383 787, 16 LED 2d 86 S.Ct. 1152; "There is no good faith defence because of lack of awareness on part of conspirators at time they commit

prohibited acts that are in fact violating constitutional right" United States vs. Erhlichman (1976) 178 App DC 144 546 F2d 910; cert. den. "Extortion may be proved under 18 USC, Section 1951 (b)(2) by apparant acts of defendants under color of official right...need not be predicated upon finding that defendant prevented legal or statutory power of public office" United States vs. Price (1974 CA 4 SC) 507 F 2d 1249; "Fears of economic loss is sufficient to constitute extortion in violation of 18 USC, 1951;...extortion under color of official right is violation of 18 USC, 1951 incorporates common law extortion... performance or non performance of official function, term includes misuse of ones office" United States vs. Rabbit (1978 CA 8 Mo) 583 F2d 1014; "Under 18 USC, Section 1951, it is not necessary to prove that extortionist, himself either directly or indirectly received fruits of extortion

or any benefits therefrom, since gravaman of offence is loss to victim" United States vs. Jacobs (1971 CA 5 Fla) 451 2d 530 cert. den. "Congress defined unlawful pattern of racketeering activities (2 or more) in term of types of crime and behavor commonly engaged in by organized crime and attempts...and in so defining the offence, congress clearly understood that while statute applied primarily to members of organized crime statute could not be applied excllusively to members of organized crime", United STates vs. Mandell (1976 DC MD) 415 F Supp 1025.

At the appeals court level of the Bankruptcy Appellate Panel of the Ninth Circuit (BAP) Order was issued mandating pursuant to appellant/petitioner that Trustee name be removed for cause and made a party appellee in the appeal for Shannon J. Haney, Trustee, lawless, gross negligent and outrageous conduct (see

appendix C1, infra).

Upon finding out that their officially corrupt criminal associate and co-conspirator Shannon J. Haney name had been ordered removed from the appeal as party appellant and made party appellee, the fraud ring had certain of their friends in the clerks office at the Bankruptcy Appellate Panel of the Ninth Circuit (see item crossed out after docket entry number 4 on BAP of Ninth Circuit Docket sheet.

Thereafter, the respondants and their criminal associates concealed and or removed from the clerks office the related appeal # CC90-1333 record at the Bankruptcy Court at San Bernardino, California and refused to certify the appeal record so that it could not be consolidated with the related appeals of CC90-1166 and CC90-1634, all from the same underlying bankruptcy case #SBX90-00146MG.

Nextly, petitioner/appellant was forced to file motions to consolidate

the various and related appeals of CC90-1166, CC90-1333, and CC90-1634 pending from bankruptcy case SBX90-00146MG pending before the Bankruptcy Appellate Panels of the Ninth Circuit Court of Appeals which necessarily delayed the filing of briefs.

Petitioner also filed three different emergency motions requesting both a stay/ injunction order pending the Appellate proceedings with the same force and or effects of the automatic stay to prevent the perfection of bankruptcy fraud, in each instance about 1-2 months later on an emergency filed motion for injunction/ stay order the BAP of the Ninth Circuit totally and unconscionably refused to address or consider the injunction/stay request in whole or part to aid, assist, protect and cover up the misconduct of the lower court corrupt bankruptcy ring and to prevent appellant/petitioner from

having an appealable ruling to a higher court wherein it may posibly be given.

During all times relevant to the instant appeal while it was before the BAP of the Ninth Circuit petitioner patiently and diligently pursued the Appeal of this case action, but was being defeated by the withholding of official action following the request for Emergency Stay Order Injunction from the BAP of Ninth Circuit filed on 9/27/90, not acted upon until 11/8/90 (1½ months later) the decision was made outside of the judicial process because petitioner was not frustrated enough to be defeated and give up his appeals. So purportedly on Thursday, November 8, 1990, BAP again refused to address the issue of Stay or Injunction pending this appeal and with intent to dismiss and destroy this appeal, knowing that the clerk would not mail copy of their order until Monday November 11, 1991 and that petitioner would hopefully

not have ample time to file brief by 11/15/91 if only received Order on or about 11/12/90. Thereby pretextually having good cause to dismiss the instant case on appeal before it.

However, petitioner/appellant did in fact complete and mail his brief to the Bar on 11/14/90 and to the appellees. As a consequence this foil the plans of the obstruction of justice in this appeal. Petitioner/appellant subsequently contacted the BAP-clerk's office about conformed copy of brief and was told that appellant briefs were not filed or received; Petitioner/appellant rushed out the same day and made new additional copies of his brief and personally went to the clerk's-office to file said replacement copies of the brief and the clerk had been instructed not to accept them to prevent the appeal being heard or decided on the merit.

After much insistence the clerk went

to the BAP judge and she then accepted the briefs for filing on 11/28/90, but told appellant because his brief was 50 pages excluding the appendix, table of contents, table of cases and authorities, though in full conformity with 11 USC Bankruptcy Rule 8010, appellant/petitioner had to file a request to exceed 30 page limit. On the following date of 11/30/90, appellant filed such a request.

Because the fraudulent and misconduct of the respondent was so great the only defence to the brief was to refuse to file a brief and get the protection and cover-up of the BAP, which was done by a pretextual filing of extension of time, knowingly and willfully filing on 12/12/90 a false declaration in the belated request for added time to file a brief which stated appellant brief was 144 pages, which is absolutely false and perjurious and was filed in a bankruptcy proceeding contrary

to Title 18 USC, Section 151, 152, 1961(d), 1962 et seq.

On 12/8/90, appellant seeing the trickery, treachery, fraud and deceit, again filed a request for a stay/injunction order and opposed the extension of time.

On 12/28/90, BAP of Ninth Circuit in an attempt to cover-up misprison and protect the bankruptcy fraud ring at San Bernadino, dismissed case action under pretext of failure to prosecute.

If this court look at the entire record of BAP case record and docket sheet, it will find that the delays of time were largely the result of the BAP, refusing to diligently address the consolidation of the appeals cases and their total refusal to consider in whole or part the request for stay/injunction order pending appellate proceedings, to keep the petitioner from having either an injunction or denial that would have been appealable.

If this is not an abuse of discretion by the BAP, petitioner asks what is?

Petitioner filed notice of appeal to the Ninth Circuit Court of Appeals on 1/7/91.

Prior to filing the appeal to the Ninth Circuit from the BAP the BAP clerk whose initials are V.J. tried to trick appellant into believing that he had 30 (thirty days) in which to appeal to the Ninth Circuit and became extremely upset when petitioner did not fall for her lies and trickery, and started throwing all the briefs filed by appellant/petitioner away. The only thing that stopped her is the fact that one of the other clerks informed that quite possible the Ninth Circuit needed copies of the Briefs for their files.

Appeal timely made and timely briefed to Ninth Circuit Court of Appeal.

Respondent only defence to the appeal

was keep the case dismissed, no law or points of significance, no controverting or defence or explanation as to the facts, the law or the gross misconduct.

After about one year of wait the Ninth Circuit Court of Appeals refused to address the controversial issues of fraud and contempt, abused their own discretion and neglected their sworn duty to the law, the honor and dignity of the Federal Judiciary and instead refused to protect the constitutional rights, property and interest of petitioner or uphold the rules of law, which appeared less important than fraud upon the federal judiciary, bankruptcy fraud, racketeering and contempts and criminal conspiracy committed by officers of the court in performance and non-performance of their sworn duty and oaths of offices, thereby leaving petitioner without rights, recourses and remedies of any kind for these most

outrageous and egregious wrongs perpetrated by respondents and their associates.

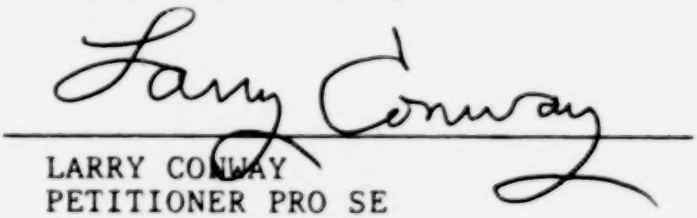
REASONS FOR GRANTING WRIT

Whether the Appeals Courts below have so far, and or egregiously departed from the accepted and usual course of judicial proceedings and has sanctioned same, such departure by the lower courts as to call for an agressive exercise of this United States Supreme Court power of supervision, give guidance and warning to lower Courts to prevent frauds and contempts upon the Federal Judiciary and protect the honor, dignity and integrity of the Federal Judiciary and the American System of Government and vindicate the Public Interest.

CONCLUSION

For this and the various reasons set forth above in this petition for Writ Of Certiorari, should be granted.

RESPECTFULLY SUBMITTED,

BY 

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NOVEMBER 3, 1991

APPENDIX A

MEMORANDUM ORDER OF THE United STATES COURTS OF APPEALS FOR THE NINTH CIRCUIT.

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: LARRY CONWAY, Debtor,	NO. 91-55041
LARRY CONWAY, APPELLANT, V. STATESMAN MORTGAGE COMPANY fka Federated Financial Corporation, APPELLEE.	D.C. No. CC-90-1166 MEMORANDUM *
	FILED AUGUST 5, 1991

On Appeal from the Ninth Circuit Bankruptcy Appellate Panel Perris, Volinn, and Meyers, Bankruptcy Judge's presiding

Submitted July 29, 1991**

Before: Farris, Alarcon, and T.G. Nelson, Circuit Judges.

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

The panel unanimously finds this case suitable for decision without oral argument. Fed..R. App. p. 34(a) and Ninth Cir. p 34-4.

Larry Conway, a Chapter 13 debtor, appeals pro se the Bankruptcy Appellate Panel's (BAP") dismissal of his appeal from the bankruptcy court's order lifting the automatic stay in favor of appellee Statesman Mortgage Company. Conway raises numerous issues which collectively indicate a contentention that the BAP erred by dismissing his appeal for lack of diligent prosecution under Bankruptcy Appellate Panel Rule 9(b). We have jurisdiction over appeals from final orders of the BAP under 28 U.S.C. S 158(d), and we affirm.

We review a lower court's dismissal for failure to prosecute for abuse of discretion. Henderson v. Duncan, 779 F.2d 1421, 1423(9th Cir.1986).

"[D]ismissal is a harsh penalty and is to be imposed only in extreme circumstances." Id. A showing of unreasonable delay creates a presumption of injury to the defense and is required to support a dismissal for lack of prosecution. Id. In determining whether unreasonable delay existed, we give deference to the lower court because it "is in the best position to determine what period of delay can be endured before its docket becomes unmanageable." Id.

We have recognized five factors to be considered by the lower court before it dismisses a case for lack of prosecution. See Ash v. Cvetkov, 739 F. 2d 493, 496 (9th Cir.), cert. denied, 470 U.S. 1007 (1985). These include: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions. Id. The lower court need not make specific findings to show that it considered these factors. Henderson, 779 F.2d at 1424. If no such findings are present, however, we will review the record independently to determine whether the lower court abused its discretion. Id.

Rule 9(b) of the Bankruptcy Appellate Rules provides that "when an appellant fails to file an opening brief timely, or otherwise fails to comply with the rules requiring processing the appeal to hearing, the panel clerk, after notice, shall enter an order dismissing the appeal."

Here Conway's opening brief on appeal

to the BAP was due on July 9, 1990. On that date he requested and received an extension of time to file the brief until August 8, 1990. On August 8, 1990 Conway requested another extension, which the BAP granted, until October 4, 1990. On October 4, 1990 Conway requested yet another extension of time to file his opening brief. The BAP issued an order on November 8, 1990 granting an extinsion of time until November 15, 1990. The order noted that no further extensions would be granted and that failure to file an opening brief by November 15, 1990 would result in dismissal of the appeal. Conway did not file an opening brief until November 28, 1990.

Thus, the record indicates that Conway was given ample opportunity to prosecute his appeal. Conway consistently disregarded deadlines and ignored the BAP's warning by filing his brief thirteen days after final deadline. Given Conway's dilatory behavior, the public's interest in expeditious resolution of litigation, and the BAP's interest in efficiently managing its docket, we hold that the BAP did not abuse its discretion by dismissing

Conway's appeal for lack of dilligent prosecution.

See Henderson, 779 F.2d at 1424-25.

AFFIRMED.

APPENDIX B

ORDER OF THE BANKRUPTCY APPELLATE PANEL OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE NINTH CIRCUIT

In re Larry P. Conway, Debtor.	BAP NO. CC-90-1166 BK. No. SB90-00146 MG
LARRY CONWAY, APPELLANT, v. STATESMAN MORTGAGE COMPANY, fka FEDERAL FINANCIAL CORP., APPELLEE.	O R D E R ORDER FILED DEC. 28, 1990

Before: PERRIS, VOLINN, and MEYERS, Bankruptcy Judges.

The appellant's opening brief in this appeal was originally due on July 9, 1990. Upon the appellant's July 9, 1990, request for an extension of time, the Panel extended the time for filing the appellants opening brief until August 8, 1990. On August 14, 1990, the appellant requested and the Panel subsequently granted an extension of time until October 4, 1990, the appellant filed a final request for an extension of time. By an order filed November 8, 1990 the Panel set November 15, 1990

(seven days from the date of the order), as the deadlline for filing the opening brief. The order noted that several extensions have already been granted and stated that

> no further extensions will be granted and failure to file an opening brief within the time period allowed will result in dismissal of the appeal.

The appellant did not file his opening brief on or before November 15, 1990. The appellant attempted to file an opening brief on November 28, 1990. The brief presented to the Panel, however was deficient in that it exceeded the page limitation of BAnkruptcy Appellate Panel Rule 5(b) and failed to reference the parts of the record that supported the factual allegations as required by Bankruptcy Rule 8010(a)(1)(D).

The appellant's history of requesting extensions on or near the final day upon which his opening brief was due, his numerous requests for extensions and his failure to attempt to file an opening brief until over four months after the brief

was originally due reflects a disregard of his duty to prosecute this appeal and a disregard of the rules and time limitations of this Panel. The Panel has considered sanctions less drastic than dismissal by warning the appellant that failure to file an opening brief within the prescribed time period would result in dismissal of the appeal. Despite this warning, the appellant persisted in his dialtory conduct.

Therefore, is HEREBY ORDERED that this appeal is dismissed pursuant to Bankruptcy Appellate Panel Rule 9(b).

APPENDIX C

ORDER OF BANKRUPTCY APPELLATE PANEL REMOVING TRUSTEE, SHANNON J. HANEY' S NAME FOR CAUSE AS PARTY APPELLANT AND MANDATING THAT THE TRUSTEE SHANNON J. HANEY SHALL BE LISTED AS AN APPELLEE IN THIS APPEAL.

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE NINTH CIRCUIT

In re	BAP NO. CC-90-1333
LARRY P. CONWAY, DEBTOR.	Bankruptcy No. SB90-00146 MG
LARRY CONWAY, APPELLANT,	Adversary No.
vs.	O R D E R
SHANNON J. HANEY, TRUSTEE APPELLEE.	ORDER FILED MAY 10, 1990

Before: Elizabeth L. Perris, Bankruptcy Judge

The Panel has considered the Motion To Remove Name and Party as Appellant filed by Shannon J. Haney, the Chapter 13 Trustee, Appellant's Opposition To Motion and Correction To Opposition.

It is hereby ORDERED that the Trustee's name will be REMOVED as an appellant, but shall be listed as an appellee in this appeal.

APPENDIX D

ORDER OF THE BANKRUPTCY COURT LIFTING AUTOMATIC STAY

Bruce H. Zuckerman
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Law Offices
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(818) 915-8907
File No. T-8551
Attorney for Moving Party

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

In re: LARRY CONWAY, aka LARRY P. CONWAY aka LARRY PAUL CONWAY , DEBTOR.	CHAPTER 13 CASE NO. SBX90-00146 LR MG
STATESMAN MORTGAGE COMPANY, fka FEDERATED FINANCIAL CORPORATION, MOVING PARTY, VS. LARRY CONWAY, aka LARRY P. CONWAY aka LARRY PAUL CONWAY , SHANNON J. HANEY, TRUSTEE, Respondents.	ORDER LIFTING AUTOMATIC STAY HEARING DATE: JANUARY 31,1990 TIME: 9:a.m. COURTROOM: 3 ENTERED JAN. 31, 1991 FILED JAN 31, 1991

Moving Party's Motion for Relief from Automatic Stay having come on for hearing on January 31, 1990, before the HONORABLE MITCHEL R. GOLDBERG, Motion and Notice of Motion having been served upon the debtor, LARRY CONWAY, and upon the Trustee, SHANNON J. HANEY, moving party, STATESMAN MORTGAGE COMPANY fka FEDERATED FINANCIAL CORPORATION, appearing through its attorney ROBERT E. WEISS INCORPORATED by BRUCE H. ZUCKERMAN, debtor, LARRY CONWAY, /~~NM~~ being present, trustee SHANNON J. HANEY, not being present, and the matter having been submitted:

IT IS ORDERED that the automatic stay pursuant to 11 United States Code 362 be lifted and that moving party, its successors, or assignees be authorized to proceed with any of the rights and remedies given it under that certain Deed of Trust recorded July 2, 1984, as Instrument No. 142499 executed by debtors predecessors in interest in favor of DIRECTORS MORTGAGE LOAN CORPORATION, to secure an indebtedness of $114,469 upon the real property located in the county of Riverside, State of California, commonly known as:

577 West Ontario Avenue

Corona, California

and legally described as follows:

Lot 15 of Tract No. 11764, as per Map recorded in Book 116, Pages 84 through 87 inclusive of Maps, in the Office of the County Recorder of said country.

IT IS FURTHER ORDERED THAT MOVING PARTY, STATESMAN MORTGAGE COMPANY fka FEDERATED FINANCIAL CORPORATION, its successors, or assignees be authorized to sell the subject property at trustee sale on or after March 8, 1990 and recover possession of said property through an action in unlawful detainer if necessary.

IT IS FURTHER ORDERED that the automatic stay pursuant to 11 United States Code, 362, be deemed null and void as to subsequent Chapter 7, 11, and 13 filings by this debtor or any other bankruptcy filings, afficting this property within one hundred eight (180) days from the date of entry of this Order.

DATED 1/31/1990

MITCHELL GOLDBERG
MITCHELL R. GOLDBERG
Bankruptcy judge